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15 UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF CALIFORNIA
17

18 BRIAN WHITAKER,
19 Plaintiff,

20 v.

21 HOT TOPIC, INC., a California Corporation,
22 Defendant.

Case No. 2:21-cv-00436-TLN-KJN
Honorable Troy L. Nunley

**STIPULATION AND ORDER TO
EXTEND THE FACT DISCOVERY
DEADLINE AS SET IN THE COURT'S
MARCH 11, 2021 INITIAL PRETRIAL
SCHEDULING ORDER**

Action Filed: March 11, 2021
Trial Date: None Set

1 By way of this Joint Stipulation (the “Stipulation”), Plaintiff Brian Whitaker and
2 Defendant Hot Topic, Inc. jointly seek an Order from this Court extending the deadline for
3 completion of fact discovery, as set forth in this Court’s March 11, 2021 Initial Pretrial Scheduling
4 Order (the “Order”), by sixty (60) days. [Dkt. No. 3.] The fact discovery deadline is currently set
5 for January 3, 2022 and by way of this Stipulation, the Parties seek to extend this deadline to
6 March 4, 2022. In order to accommodate the extension of the fact discovery deadline as requested
7 above, the Parties also jointly request to extend the expert and rebuttal expert disclosure deadlines
8 by thirty (30) days. Currently, initial expert disclosures are required by March 4, 2022 (opening)
9 and April 4, 2022 (rebuttal), respectively, and by way of the instant Stipulation, the Parties request
10 that these deadlines be extended to April 4, 2022 and May 4, 2022, respectively. The proposed
11 modification of these deadlines will not otherwise affect the case schedule and no other deadlines
12 in the past or future, except those specified in this Stipulation, are meant to be altered or extended.
13 In support of this Stipulation, the Parties jointly state as follows:

14 WHEREAS, on September 9, 2021, Defendant, Hot Topic, Inc. (“Defendant”) noticed the
15 deposition of Plaintiff Brian Whitaker (“Plaintiff”) for October 22, 2021;

16 WHEREAS, on October 1, 2021, Defendant requested dates for the deposition of
17 Plaintiff’s fact witness, Tim Wegman;

18 WHEREAS on October 1, 2021, Plaintiff informed Defendant that due to other litigation
19 commitments which included a trial in another matter involving Plaintiff, Plaintiff would be
20 unavailable for deposition within a time period which allowed the Parties sufficient time to meet
21 the fact discovery cutoff set forth in this Court’s March 11, 2021 Order as Plaintiff and Mr.
22 Wegman could only make themselves available in mid-November and early-December of 2021;

23 WHEREAS, the Parties have met and conferred regarding the applicable deadlines set in
24 the instant matter to ensure compliance with them and the Parties agree that good cause supports
25 extending the fact discovery cutoff;

26 WHEREAS, in light of Plaintiff’s other litigation commitments which make him and his
27 witness unavailable for deposition until mid-November to early-December of 2021, and in light of
28 the holiday season wherein both Firm offices and the Courts are closed, the Parties have

1 determined that, in order for the Parties to timely conclude discovery in this matter, an extension
2 of time is warranted but which is limited to the fact discovery cutoff and the two expert deadlines
3 which must be moved to accommodate a modification to the fact discovery cutoff.

4 WHEREAS, by way of its Order of March 11, 2021 [ECF No. 3], the Court set the
5 following upcoming dates:

6 Close of Fact Discovery January 3, 2022

7 Opening Expert Disclosure March 4, 2022

8 Rebuttal Expert Disclosure April 4, 2022

9 Last Day to File Dispositive Motions July 5, 2022

10 WHEREAS, the deadline for the close of fact discovery has not previously been continued
11 in this case;

12 WHEREAS, the Parties believe that they can complete the remaining discovery to be
13 conducted in this case, as proposed below, or seek a resolution from the Court, if necessary;

14 WHEREAS, if the Court approves the requested extension of the discovery cut-off,
15 described above, the Parties agree that a short extension of the expert disclosure and discovery
16 deadlines would be warranted to accommodate the longer discovery period; and

17 WHEREAS, the Parties do not believe that this extension of the discovery cut-off will
18 require the modification of any other dates or deadlines in the case schedule ordered by the Court,
19 including, the dispositive motion cutoff.

20 **THEREFORE, IT IS HEREBY STIPULATED** by and between the Parties, through
21 their respective attorneys of record, and subject to the Court's approval, as follows:

22 1. The following dates be **EXTENDED** from their current due dates to the following:

23 Close of Fact Discovery be extended from January 3, 2022 to **March 4, 2022**.

24 Opening Expert Disclosure be extended from March 4, 2022 to **April 4, 2022**.

25 Rebuttal Expert Disclosure be extended from April 4, 2022 to **May 4, 2022**.

26 2. This Stipulation is without prejudice to the Parties' ability to seek a further extension
27 of the discovery cut off upon a showing of good cause.

28 3. No other case dates or deadlines are affected by this Stipulation and Order.

1 IT IS SO STIPULATED.

2 Dated: October 12, 2021

3 CENTER FOR DISABILITY ACCESS

4
5 By /s/ Aaina Duggal (as authorized on October 12, 2021)
6 AAINA DUGGAL
7 Attorneys for Plaintiff
8 Brian Whitaker

8 Dated: October 12, 2021

9 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

10
11 By /s/ Moji Saniefar
12 MOJI SANIEFAR
13 Attorneys for Defendant
14 HOT TOPIC, INC.

14 **SIGNATURE ATTESTATION**

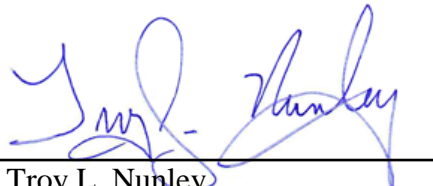
15 I hereby attest that all signatories listed above, on whose behalf this stipulation is
16 submitted, concur in the filing's content and have authorized the filing.

17
18 Dated: October 12, 2021

18 By: /s/ Moji Saniefar
19 Moji Saniefar
20 Attorney for Defendant,
21 Hot Topic, Inc.

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23 **DATED:** October 12, 2021

24
25 
26 Troy L. Nunley
27 United States District Judge
28